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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,868	12/19/2001	Alain Marie	14XZ00134	1273

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EXAMINER

MCCALL, ERIC SCOTT

ART UNIT	PAPER NUMBER
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2855

DATE MAILED: 11/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/033,868

Applicant(s)

MARIE ET AL.

Examiner

Eric S. McCall

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

# **MAMMOGRAPHY APPARATUS AND METHOD**

## **FINAL OFFICE ACTION**

In response to the Applicant's amendment (paper no. 8) dated Sep. 22, 2003.

### **CLAIMS**

#### **35 U.S.C. § 112**

In response to the Applicant's remarks, the rejection of claims 10-15 under 35 U.S.C. 112, second paragraph, as set forth in the previous office action (6/24/03) has been overcome.

35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Coe (5,305,365).

Coe teaches an apparatus comprising:

an examination arm (12) with, at one end thereof, an image receiver (16) and a radiation delivery head (10) at the other end,

a support (60) on which the arm (12) is mounted;

the arm being mounted for rotation about a first axis (ie. common axis of outer tube 90 and inner tube 110; col. 4, lines 35-39) substantially perpendicular to the direction of the examination arm and passing through the center of an examination position;

the arm being further mounted for rotation about a second horizontal axis (82) substantially perpendicular to the first axis and to the examination arm; and

a support column (20) on which the support can be moved up and down vertically.

With regards to claim 2, the examination arm of the prior art includes, as stated above, the image receiver (16) on one end and the radiation delivery head (10) on the other end. As such, the arm is “C-shaped” as claimed.

With regard to claims 3 and 4, the arm of the prior art rotates about the second axis (82) from a vertical position to a horizontal position as claimed. Fig. 1 of the prior art shows a position therebetween.

With regard to claims 5-7, the prior art states that rotation about the common axis (ie. first axis) of tubes 90 and 110 is capable. Thus, the prior art discloses that rotation “about” the common axis is capable, the interpretation is made that the examination arm can revolve 360 degrees. Thus, the prior art is capable of performing the claimed function.

With regard to claims 8-15, said claims are directed to the method of using the apparatus as claimed in claims 1-7. Claims 8-15 parallel that of claims 1-7 and thus are rejected for the same reasons as their corresponding claim above. No further analysis is deemed necessary to clarify the Examiner’s position as to the reading of said claims.

Response to Arguments

The Applicant has argued that the prior art of Coe fails to teach the “first axis”, which is perpendicular to the direction of the examination arm, “passing through the center of an examination position”. The Examiner disagrees. Coe teaches an examination arm (12) which rotates about a “first” axis. The “first” axis is the common axis of outer tube (90) and the inner tube (110). The Examiner next points out that the “breast compression paddle” (18) is adjustable in a direction parallel with the examination arm (ie. the breast compression paddle is movable in an up and down direction). Thus, the “breast compression paddle” is adjustable to an “upward” position above the first axis where the “first axis”, as described above, has the image receiver (16) on one side and the breast compression paddle (18) on the other side. Thus, the teaching of Coe is interpreted as having the first axis passing through the center of an examination position.

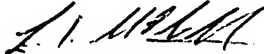
To even further illustrate this teaching, Coe teaches a radiation delivery head (10) and an image receiver (16) as claimed. The area between said head and said receiver is interpreted as the “examination position” as claimed because the Applicant has failed to claim the boundaries of what is deemed as the “examination position”. As such, the first axis of Coe (as described above) passes through the center of the “examination position”.

**CONCLUSION**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Eric S. McCall at telephone number (703) 308-6968.

  
Eric S. McCall  
Primary Examiner  
Art Unit 2855  
Nov. 19, 2003